

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

TRUSTEES OF BOSTON UNIVERSITY, )  
Plaintiff, )  
v. ) Consolidated Civil Action No.  
 ) 12-11935-PBS  
 )  
EVERLIGHT ELECTRONICS CO., LTD., )  
et al., )  
Defendants. )  
\_\_\_\_\_  
)  
)  
TRUSTEES OF BOSTON UNIVERSITY, )  
Plaintiff, )  
v. ) Civil Action No. 12-12326-PBS  
)  
)  
EPISTAR CORPORATION, et al., )  
Defendants. )  
\_\_\_\_\_  
)  
TRUSTEES OF BOSTON UNIVERSITY, )  
Plaintiff, )  
v. ) Civil Action No. 12-12330-PBS  
)  
)  
LITE-ON INC., et al., )  
Defendants. )  
)

## ORDER

October 19, 2015

Saris, C.J.

Plaintiff Trustees of Boston University (BU) has filed suit against Defendants Epistar Corporation, Everlight Electronics Co., Ltd., and Lite-On Inc., alleging infringement of U.S. Patent No. 5,686,738. Defendants have moved to bifurcate the trial as between Epistar and its two "trailing customer

defendants," Everlight and Lite-On (Docket No. 1364). BU opposes, seeking a single unified trial against all three defendants (Docket No. 1381). After hearing and a review of the submissions, I will structure trial as detailed below.

1. The actions against all three defendants will be tried beginning on November 2, 2015, at 9:00 a.m. The jury will hear evidence as to infringement, validity, and certain theories of damages. However, the court will not consider the "design win" theory of damages at this trial. BU may present its direct infringement theory of damages, and its induced infringement theory insofar as these theories do not implicate design win evidence. Resolution of the design win issue will be deferred. If BU prevails on infringement and validity, the Court will conduct a Daubert hearing as to design win, and, if the theory survives, impanel a second jury.

2. Each side will have sixteen (16) hours to present its case, including opening statements and closing arguments. Counsel shall appear in court at 8:30 each morning when the court will hear objections to the day's exhibits. The parties shall exchange exhibits two business days before a witness is scheduled to take the stand at trial. Furthermore, counsel shall confer to minimize any objections to deposition transcript testimony. Counsel shall present all unresolved objections to

the Court three business days before the evidence is set to be introduced at trial.

3. Counsel shall submit proposed verdict forms by October 28, 2015.

/s/ PATTI B. SARIS

Patti B. Saris

Chief United States District Judge